

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JAMES TULGAN,)	
Plaintiff)	
)	
v.)	CIVIL ACTION NO. 03-30298-MAP
)	
BERKSHIRE ARMORED CAR)	
SERVICES CO., INC., ET AL)	
Defendants)	

MEMORANDUM AND ORDER REGARDING
MOTION TO DISMISS OF DEFENDANT POWERS
AND PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT
ON DEFENDANTS' COUNTERCLAIMS
(Docket Nos. 28 & 29)

March 24, 2005

PONSOR, D.J.

Counsel for all parties, except the defendant Powers who is proceeding pro se, appeared before this court on March 23, 2005 for argument on two pending motions.

During the argument, the court allowed the Motion to Dismiss of defendant Powers, without opposition from the plaintiff. Although defendant Powers was not present during the hearing, the motion was allowed, on the ground that the plaintiff has filed for bankruptcy.

Also during oral argument, the court allowed the plaintiff's Motion for Summary Judgment on all of the defendants' counterclaims. These counterclaims have clearly been raised outside the statute of limitations.

In summary, the Motion to Dismiss of defendant Powers

(Docket No. 28) is hereby ALLOWED. The plaintiff's Motion for Summary Judgment on all of defendants' counterclaims (Docket No. 29) is also ALLOWED.

This case is set for a final pretrial conference to take place on May 17, 2005 at 3:00 p.m. At least five (5) days prior to the conference, counsel will file final pretrial memoranda in accordance with the attached order. Please note: failure to file a final pretrial memorandum as ordered may result in default or dismissal.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge